

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HOWARD McDONALD, et. al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	CIVIL ACTION NO. 5:16-cv-09952
JIM JUSTICE, et. al.,)	
)	
Defendants.)	

**MOTION TO DISMISS &
INTEGRATED MEMORANDUM OF LAW IN SUPPORT**

COMES NOW the Defendant, the United Mine Workers of America (“UMWA”), and pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure, moves this Court to dismiss all claims against the UMWA in the Complaint filed by Plaintiffs in the above-captioned matter. This Court lacks subject-matter jurisdiction and Plaintiffs have failed to state a claim upon which relief can be granted.

The UMWA submits that the claims against it in the Complaint are jurisdictionally deficient and therefore must be dismissed. The statutory grant of jurisdiction under the Worker Adjustment Retraining and Notification Act (“the Act”), 29 U.S.C. § 2101 *et seq*, is expressly limited to suits against employers, as defined in the Act. The UMWA is not and has never been Plaintiffs’ employer and the limited grant of jurisdiction in the Act does not extend to claims against labor organizations. Therefore, the Act does not provide a basis for this Court’s jurisdiction over Plaintiffs’ claims against the UMWA.

In addition, Plaintiffs' claims against the UMWA were not pled with sufficient factual specificity to support a claim against the UMWA, and therefore this Court cannot grant the relief requested.

Respectfully submitted,

/s/ Grant Crandall
Grant Crandall (WV Bar. #861)
General Counsel
Chuck Donnelly (WV Bar. #1039)
Arthur Traynor
Associate General Counsel
United Mine Workers of America
18354 Quantico Gateway Drive
Triangle, Virginia 22172
atraynor@umwa.org
Ph: (703) 291-2400

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the United Mine Workers of America's Motion to Dismiss was served via regular first-class mail on Plaintiffs and Defendants listed in the attachment provided with Plaintiffs' summons, a copy of which is attached to this Certificate.

/s/ Arthur Traynor

PLAINTIFS

NAME	PHONE	ADDRESS
1. Howard McDonald <i>Howard McDonald</i>	(304)-235-0165	Rt. 1 Box 78 Williamson, WV 25661
2. Nicholas C. Dove <i>Nicholas C. Dove</i>	(606)-237-4850	163 Paw Paw Frk. Burnwell, Ky. 41514
3. Chad Cline <i>Chad Cline</i>	(304)-938-5209	Po Box 414 Panther, WV 24872
4. Thomas McComas <i>Thomas McComas</i>	(681)-352-4205	Po Box 281 Lorado, WV 25630
5. Joe Sanders <i>Joe Sanders</i>	(304)-923-3589	Po Box 1766 Oceana, WV 24870
6. Frank Adkins <i>Frank Adkins</i>	(304)-583-7070	24 Gillespie Rd Man, WV 25635
7. Jonathan Brown <i>Jonathan C. Brown</i>	(681)-220-9797	778 Skin Fork Rd. Brenton, WV 24818
8. David Vanover <i>David Vanover</i>	(304)-583-6965	Po Box 153 Bruno, WV 25611
9. John Blackburn <i>John Blackburn</i>	(304)-946-7558	1876 R. A. West Hwy. Delbarton, WV 25670
10. Joey Moore <i>Joey Moore</i>	(304)-682-3008	Po Box 131 Clear fork, WV 24822
11. Eddie Taylor <i>Eddie Taylor</i>	(304)-443-2225	Po Box 573 Varney, WV 25696
12. [REDACTED]	(304)-906-7516	946 Skin Fork Rd. North Springs, WV 24869
13. Dave Cline <i>Dave Cline</i>	(304)-688-3034	12986 Jerry West Hwy. Delbarton, WV 25670
14. Michael Mullins <i>Michael Mullins</i>	(304)-682-3219	Po Box 204 Oceana, WV 24870
15. Eric T Davis <i>Eric T Davis</i>	(304)-888-3879	Po Box 55 Coal Mountain, WV 24823
16. Mike Ellis <i>Mike Ellis</i>	(304)-682-0151	5471 Country Rd. Cyclone WV 24827
17. Virgil Sammons Jr. <i>Virgil Sammons Jr.</i>	(304)-784-2510	Rt. 1 Box 668 Delbarton, WV 25670
18. Jeremy Maynard <i>Jeremy Maynard</i>	(304)-784-4240	11 Laurel Creek Rd Lenore, WV 25676
19. [REDACTED]	(304)-583-7580	Box 198 Acornville, WV 25606
20. Adam Gentry <i>Adam Gentry</i>	(304)-920-5727	Po Box 611 Cool Ridge, WV 25825
21. Josh Toler <i>Josh Toler</i>	(304)-946-8870	5901 Buffalo Creek Rd Amherstdale, WV 25607
22. Randy Vanover <i>Randy Vanover</i>	(304)-583-7776	Po Box 122 Bruno, WV 25611
23. William J Graham <i>William J Graham</i>	(304)-934-8329	120 Burley St. Lester, WV 25865
24. Corey Jackson <i>Corey Jackson</i>	(304)-928-0866	Rt. 2 Box 173 Delbarton, WV 25670

DEFENDANTS

Jim Justice	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Jay Justice	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Dynamic Energy	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Mine # 30	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Bluestone Coal	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Bluestone Resources	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Justice Highwall	(540)-776-7890	302 South Jefferson St. Roanoke, Va. 24011
Mechel	(540)-776-7890	Moscow, Russia
Mechel Bluestone	(540)-776-7890	Moscow, Russia
United Mine Workers of America	(703)-291-2400	18354 Quantico Gateway Drive Suite 200 Triangle, Va. 22172